



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Andre G. Lambert Rev. Trust / Map 12, Lot 111

June 20, 2012

Applicant: Andre G. Lambert Rev. Trust
Andre G. Lambert Trustee
P.O. Box 1049
Moultonborough, NH 03254-1049

Location: 18 Myrtle Drive, Moultonborough, NH (Tax Map 12, Lot 111)

On June 20, 2012, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of the Andre G. Lambert Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (B)(3) to allow for the placement of an 8' x 10' prefab shed within the existing twenty (20) foot side line setback on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 18 Myrtle Drive (Tax Map 12, Lot 111).
- 2) The applicant is the owner of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The side setback for the parcel is twenty (20) feet from the property line.
- 5) There is an existing dwelling that is partially located within the required road setback.
- 6) The applicant noted one of the distances shown on his sketch provided with the application was incorrect. Based on that, he requested to amend the application to correct the side line encroachment while increasing the size of the shed from an 8' x 10' to an 8' x 12', to be located 14' from the side line setback.
- 7) It was stated for the record that the septic system and leaching field was a raised (4 ½ foot) system in the front of the house, encumbering most, if not all of the remainder of the undeveloped buildable envelope on this small lot.

- 8) No members of the public wished to speak on the application.
- 9) Board members requested that the revised 8' x 12' shed be rotated 90 degrees, placing the 12' long side of the shed parallel to the property line, 16' from the property line.
- 10) The applicant was in agreement with the request of the board that the 8' x 12' shed be rotated 90 degrees, placing the 12' long side of the shed parallel to the property line, 16' from the property line.
- 11) Granting the Variance will not be contrary to the public interest as there will be minimal disturbance to the ground cover and the shed is keeping in character with those of neighboring properties.
- 12) Granting the Variance is consistent with the spirit of the Ordinance as this is an existing, non-conforming lot of record which is $0.17 \pm$ acres. There is no unencumbered area on the lot that meets current building setbacks, with the exception of placing the shed on the leaching field. The spirit of the ordinance was not to eliminate an owner's right to a reasonable use of their property.
- 13) By granting the Variance, substantial justice is done as the shed will allow for the storage of small equipment which was previously stored in the basement, therefore providing greater safety. Additionally, other properties in the neighborhood have similar shed type structures.
- 14) Granting the Variance does not diminish the value of surrounding properties as the new shed will be attractive, keeping in character with neighboring properties and will only increase surrounding property values.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
- 16) The Zoning Board of Adjustment voted five (5) in favor (Stephens, Nolin, Crowe, Bickford, King), and none (0) opposed to continue the case to July 18, 2012, and to direct staff to draft a formal Notice of Decision to Grant the variance, to reviewed and fianlized by the Board at the July 18, 2012 Regular Meeting.

The case was continued to July 18, 2012. The Board of Adjustment closed the Public Hearing on June 20, 2012. Based on the above Findings of Fact, the Board of Adjustment voted four (4) in favor (Nolin, Crowe, Zewski, Hopkins), none (0) opposed, to **GRANT** the request for variance.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Russell Nolin
Vice Chairman, Zoning Board of Adjustment

Date 7/18/12